

60820 Blum

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

MAR 3 2004

CARL EMMETT WYATT, #211315,

Petitioner,

v.

GWENDOLYN C. MOSLEY, *et al.*,

Respondents.

CLERK
U. S. DISTRICT COURT
MIDDLE DIST. OF ALA.

CIVIL ACTION NO. 03-F-1080-N

ORDER

On February 6, 2004, the Magistrate Judge filed a Recommendation in this case to which no timely objections have been filed. Upon an independent review of the file in this case and upon consideration of the Recommendation of the Magistrate Judge, it is

ORDERED that the Recommendation be and is hereby adopted and that Petitioner's motion to dismiss is granted and that this case is dismissed without prejudice.

Done this 3rd day of March, 2004.


UNITED STATES DISTRICT JUDGEEOD 3-3-04

17

FILED

Beeson
60820

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

FEB - 6 2004

CLERK 
U. S. DISTRICT COURT
MIDDLE DIST. OF ALA.

CARL EMMETT WYATT, #211 315 *

Petitioner, *

v. *

* CIVIL ACTION NO. 03-F-1080-N

GWENDOLYN C. MOSLEY, *et al.*, *

Respondents. *

RECOMMENDATION OF THE MAGISTRATE JUDGE

Petitioner filed this application for habeas relief on October 29, 2003. On February 5, 2004 he filed a Motion to Dismiss his petition without prejudice so that he may exhaust his state remedies. (Doc. No. 15.) Upon review of the file in this case, the court concludes that Petitioner's motion to dismiss is due to be granted.

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that Petitioner's motion to dismiss be granted and that this case be dismissed without prejudice.

Done this 6th day of February, 2004.



DELORES R. BOYD
UNITED STATES MAGISTRATE JUDGE


CIVIL ACTION NO. 03-F-1080-N

ORDER

The Clerk of the Court is ORDERED to file the Recommendation of the Magistrate Judge and to serve by mail a copy thereof on the parties to this action. The parties are DIRECTED to file any objections to the said Recommendation within a period of 13 days from the date of mailing to them. Any objections filed must specifically identify the findings in the Magistrate Judge's Recommendation objected to. Frivolous, conclusive or general objections will not be considered by the District Court.

Failure to file written objections to the proposed findings and recommendations in the Magistrate Judge's report shall bar the party from a de novo determination by the District Court of issues covered in the report and shall bar the party from attacking on appeal factual findings in the report accepted or adopted by the District Court except upon grounds of plain error or manifest injustice. *Nettles v. Wainwright*, 677 F.2d 404 (5th Cir. 1982). See *Stein v. Reynolds Securities, Inc.*, 667 F.2d 33 (11th Cir. 1982). See also *Bonner v. City of Prichard*, 661 F.2d 1206 (11th Cir. 1981, *en banc*), adopting as binding precedent all of the decisions of the former Fifth Circuit handed down prior to the close of business on September 30, 1981.

Done this 17th day of February, 2004.



DELORES R. BOYD
UNITED STATES MAGISTRATE JUDGE